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April 21, 1999

Pages (including this page): 7

8484-013-999

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Please see attached.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

International Application of: *Andrea Kern et al.*

Serial No.: 08/637,752

Group Art Unit: Unassigned

Filing Date: April 29, 1996

Examiner: Unassigned

For: **ADENO-ASSOCIATED VIRUS -
ITS DIAGNOSTIC USE WITH
EARLY ABORTION**

Attorney Docket No.:
8484-013-999

**PETITION FOR REVIVAL OF AN INTERNATIONAL
APPLICATION FOR PATENT DESIGNATING THE U.S.
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)**

ATTN: INTERNATIONAL DIVISION, LEGAL STAFF
BOX PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The above-referenced International Application unintentionally became abandoned on April 29, 1996, for failure to timely provide the full U.S. Basic National Fee by 30 months under 37 C F R. 1.495(b)(2). The failure to provide the full U.S. Basic National Fee was unintentional.

It is respectfully requested that the above-identified application be revived without prejudice under 34 C.F.R. § 1.137(b).

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being filed with the United States Patent and Trademark Office by facsimile transmission on April 23, 1999 to facsimile telephone number (703) 308-6459.


Birgit Miltauer

43,341
(Reg. No.)

Statement Of Facts. On April 29, 1996, the Attorney for Applicants filed a national stage Application based on Applicants' earlier filed PCT application, PCT/DE94/03564, originally filed in the German Receiving Office on October 28, 1994. The transmittal letter indicated that the Commissioner be authorized to charge the required fee to the Attorney for Applicants Deposit Account No. 16-1150. The application and all accompanying paperwork, including the fee transmittal sheet were filed by Express Mail; however, unbeknown to Applicants and the Attorney for Applicants at the time, the Express Mail Certificate on the fee transmittal sheet, although signed by the depositor, did not state the express mail number.

On June 22, 1996, the Patent Office issued a Notice of Abandonment for failure to provide the full U.S. Basic Filing Fee by 30 months. In a subsequent telephone conversation on July 11, 1996 between Attorney for Applicants and Eless Reed at the International Division of the Office, a misunderstanding arose, as Attorney for Applicants, still not realizing that the Express Mail Certificate on the transmittal sheet did not include the express mail number, was left with the impression that the Office had issued, in error, the Notice of Abandonment because on the transmittal sheet, on page 2, no. 17, the box indicating "20 months" was inadvertently marked, when, in fact, the "30 month" box should have been marked, and that the application would be reinstated as a Chapter II Demand had been filed, and thus the fee had been paid timely within 30 months. On July 12, 1996, Attorney for Applicants submitted a Communication to request reinstatement of the application because, as understood during the July 11, 1996 phone conversation, the appropriate fees had been paid timely.

On April 23, 1997, Attorney for Applicants, under the impression that the application had been reinstated, filed an Information Disclosure Statement. Shortly

thereafter, the application was taken over by a new Attorney within Pennie & Edmonds, because the previous Attorney of record, Albert P. Halluin, had left the firm.

Early in March, 1999, the Attorney for Applicants still misunderstood the true status of the case, as it was reflected in the firm's docketing system, that the application was pending. However, surprised that no Office Action had been issued yet, Applicants filed a Status Inquiry on March 4, 1999 to request clarification of the status of the application. About two weeks later, by checking the status of the application by calling the Patent Office's status line, Attorney for Applicants found out that the application was indicated abandoned. After locating the application in the Patent Office, Attorney for Applicants had the opportunity to speak with Paralegal Specialist Ho-Ngec Ngyuen, who explained that the application was abandoned because the Transmittal Letter authorizing payment of the basic national fee for the present application was not received by the Office until May 2, 1996. A Notification to the same effect was issued on April 14, 1999, and received by Attorney for Applicants on April 19, 1999. At this point, the Attorney for Applicants realized that the Express Mail Certificate on the Fee Transmittal Sheet, although signed by the depositor, lacked the express mail number, and that therefore the office had not granted the date of mailing as the filing date of the application including the required fee.

For the above stated reasons, the delay in providing the basic filing fee for entering the above-referenced International Application into the National Phase was unintentional.

The required basic national fee is being filed concurrently with this petition to complete the necessary requirements for entry into the National Phase and the filing of the above-referenced International Application in the U.S. Patent Office.

The fee for this petition, as specified in 37 CFR § 1.17(m), has been determined to be \$1,210.00.

Please charge the required fee to Pennie & Edmonds' Deposit Account No. 16-1150. The Commissioner is authorized to charge any underpayment or credit any overpayment to the deposit account No. 16-1150 for any matter in connection with this petition and this response.

Respectfully submitted,

By: *Laura A. Coruzzi* 43,341

Date April 23, 1999

Laura A. Coruzzi 30,742
Laura A. Coruzzi (Reg. No.)

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Enclosures